

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Eastern District of Texas, Marshall Division on the following

☐ Trademarks or ☒ Patents. (☒ the patent action involves 35 U.S.C. § 292.);

DOCKET NO. 2:11-cv-00122-TJW	DATE FILED 2/25/2011	U.S. DISTRICT COURT Eastern District of Texas, Marshall Division
PLAINTIFF Patent Group, LLC		DEFENDANT Oliver Packaging & Equipment Company
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 See attached		
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED 4/5/2011	INCLUDED BY <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1 See attached			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

42. Defendant knows, or at least reasonably should know, that the '341 patent does not cover the products identified in Paragraph 14, or any products whatsoever.

43. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

44. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '341 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

45. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

46. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

47. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT III - U.S. PATENT NO. 4,196,561- EXPIRED PATENT

48. For this Count, Relator repeats the allegations of Paragraphs 1-11.

49. U.S. Patent No. 4,196,561 ("the '561 patent"), entitled "Packaging Machine with Interchangeable Container Supports and Cam-Operated Cutter" issued on April 8, 1980.

50. Defendant marks and advertises, and has marked and advertised, products with the '561 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

51. Defendant causes or contributes to the marking and advertising, of products with the '561 patent number, including, but not limited to, the products identified in Paragraph 50.

52. The '561 patent is an expired patent.

53. Upon information and belief, the '561 patent expired on May 9, 1998.

54. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

55. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '561 patent would expire on May 9, 1998.

56. Defendant knew or should have known that the term of the '561 patent expired on May 9, 1998.

57. Defendant does not own or have a license to the '561 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '561 patent.

58. Upon information and belief, Defendant knew or should have known that the '561 patent had already expired at the same time Defendant was marking and advertising products with the '561 patent, including the products identified in Paragraph 50.

59. Defendant knew it did not own or have a license to the '561 patent at the same time Defendant was marking and advertising products with the '561 patent, including the product identified in Paragraph 50.

60. Defendant knows, or at least reasonably should know, that the '561 patent does not cover the products identified in Paragraph 50, or any products whatsoever.

61. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

62. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '561 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

63. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

64. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

65. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT IV - U.S. PATENT NO. 4,296,589- EXPIRED PATENT

66. For this Count, Relator repeats the allegations of Paragraphs 1-11.

67. U.S. Patent No. 4,296,589 ("the '589 patent"), entitled "Packaging Machine with Cam-Operated Cutter and Container Supports Therefor" issued on October 27, 1981.

68. Defendant marks and advertises, and has marked and advertised, products with the '589 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

69. Defendant causes or contributes to the marking and advertising, of products with the '589 patent number, including, but not limited to, the products identified in Paragraph 68.

70. The '589 patent is an expired patent.

71. Upon information and belief, the '589 patent expired on August 23, 1999.

72. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

73. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '589 patent would expire on August 23, 1999.

74. Defendant knew or should have known that the term of the '589 patent expired on August 23, 1999.

75. Defendant does not own or have a license to the '589 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '589 patent.

76. Upon information and belief, Defendant knew or should have known that the '589 patent had already expired at the same time Defendant was marking and advertising products with the '589 patent, including the products identified in Paragraph 68.

77. Defendant knew it did not own or have a license to the '589 patent at the same time Defendant was marking and advertising products with the '589 patent, including the product identified in Paragraph 68.

78. Defendant knows, or at least reasonably should know, that the '589 patent does not cover the products identified in Paragraph 68, or any products whatsoever.

79. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

80. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '589 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

81. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

82. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

83. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT V - U.S. PATENT NO. 4,662,257- EXPIRED PATENT

84. For this Count, Relator repeats the allegations of Paragraphs 1-11.

85. U.S. Patent No. 4,662,257 ("the '257 patent"), entitled "Countertop Bread Slicer" issued on May 5, 1987.

86. Defendant marks and advertises, and has marked and advertised, products with the '257 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

87. Defendant causes or contributes to the marking and advertising, of products with the '257 patent number, including, but not limited to, the products identified in Paragraph 86.

88. The '257 patent is an expired patent.

89. Upon information and belief, the '257 patent expired on November 30, 2004.

90. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

91. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '257 patent would expire on November 30, 2004.

92. Defendant knew or should have known that the term of the '257 patent expired on November 30, 2004.

93. Defendant does not own or have a license to the '257 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '257 patent.

94. Upon information and belief, Defendant knew or should have known that the '257 patent had already expired at the same time Defendant was marking and advertising products with the '257 patent, including the products identified in Paragraph 86.

95. Defendant knew it did not own or have a license to the '257 patent at the same time Defendant was marking and advertising products with the '257 patent, including the product identified in Paragraph 86.

96. Defendant knows, or at least reasonably should know, that the '257 patent does not cover the products identified in Paragraph 86, or any products whatsoever.

97. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

98. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '257 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

99. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

100. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

101. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT VI - U.S. PATENT NO. 4,759,168- EXPIRED PATENT

102. For this Count, Relator repeats the allegations of Paragraphs 1-11.

103. U.S. Patent No. 4,759,168 ("the '168 patent"), entitled "Medium-Speed Power-Feed Bread Slicer" issued on July 26, 1988.

104. Defendant marks and advertises, and has marked and advertised, products with the '168 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

105. Defendant causes or contributes to the marking and advertising, of products with the '168 patent number, including, but not limited to, the products identified in Paragraph 104.

106. The '168 patent is an expired patent.

107. Upon information and belief, the '168 patent expired on March 18, 2007.

108. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

109. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '168 patent would expire on March 18, 2007.

110. Defendant knew or should have known that the term of the '168 patent expired on March 18, 2007.

111. Defendant does not own or have a license to the '168 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '168 patent.

112. Upon information and belief, Defendant knew or should have known that the '168 patent had already expired at the same time Defendant was marking and advertising products with the '168 patent, including the products identified in Paragraph 104.

113. Defendant knew it did not own or have a license to the '168 patent at the same time Defendant was marking and advertising products with the '168 patent, including the product identified in Paragraph 104.

114. Defendant knows, or at least reasonably should know, that the '168 patent does not cover the products identified in Paragraph 104, or any products whatsoever.

115. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

116. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '168 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

117. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

118. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

119. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT VII - U.S. PATENT NO. 4,856,398- EXPIRED PATENT

120. For this Count, Relator repeats the allegations of Paragraphs 1-11.

121. U.S. Patent No. 4,856,398 ("the '398 patent"), entitled "Countertop Bread Slicer with Manually Actuated Cradle" issued on August 15, 1989.

122. Defendant marks and advertises, and has marked and advertised, products with the '398 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

123. Defendant causes or contributes to the marking and advertising, of products with the '398 patent number, including, but not limited to, the products identified in Paragraph 122.

124. The '398 patent is an expired patent.

125. Upon information and belief, the '398 patent expired on January 22, 2008.

126. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

127. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '398 patent would expire on January 22, 2008.

128. Defendant knew or should have known that the term of the '398 patent expired on January 22, 2008.

129. Defendant does not own or have a license to the '398 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '398 patent.

130. Upon information and belief, Defendant knew or should have known that the '398 patent had already expired at the same time Defendant was marking and advertising products with the '398 patent, including the products identified in Paragraph 122.

131. Defendant knew it did not own or have a license to the '398 patent at the same time Defendant was marking and advertising products with the '398 patent, including the product identified in Paragraph 122.

PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
US 4856398	08/15/1989	M&I Marshall & Ilsley Bank
US 4759168	07/26/1988	Oliver Products Company
US 4662257	05/05/1987	Oliver Products Company
US 4296589	10/27/1981	Calibre Packaging Machinery, Inc.
US 4196561	04/08/1980	Calibre Packaging Machinery, Inc.
US 4194341	03/25/1980	Calibre Packaging Machinery, Inc.
US 4141196	02/27/1979	Oliver Products Company
US D310933	10/02/1990	Oliver Products Company

In the above-entitled case, the following patents have been included:

DATE INCLUDED	INCLUDED BY AMENDMENT	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
US 5243921	09/14/1993	Oliver Products Company
US 5422152	06/06/1995	Oliver Products Company
US 5590587	01/07/1997	Oliver Products Company
US 5613423	03/25/1997	Oliver Products Company
US 5539185	07/23/1996	M&I Marshall Ilsley Bank
US 5445062	08/29/1995	M&I Marshall Ilsley Bank
US 5784858	07/28/1998	Oliver Packaging and Equipment Company
US 5946887	09/07/1999	Oliver Packaging and Equipment Company
US 6571534	06/03/2003	Oliver Packaging and Equipment Company

132. Defendant knows, or at least reasonably should know, that the '398 patent does not cover the products identified in Paragraph 122, or any products whatsoever.

133. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

134. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '398 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

135. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

136. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

137. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT VIII - U.S. PATENT NO. Des. 310,933- EXPIRED PATENT

138. For this Count, Relator repeats the allegations of Paragraphs 1-11.

139. U.S. Patent No. Des. 310,933 ("the '933 patent"), entitled "Countertop Bread Slicer" issued on October 2, 1990.

140. Defendant marks and advertises, and has marked and advertised, products with the '933 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

141. Defendant causes or contributes to the marking and advertising, of products with the '933 patent number, including, but not limited to, the products identified in Paragraph 140.

142. The '933 patent is an expired patent.

143. Upon information and belief, the '933 patent expired on October 2, 2004.

144. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

145. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '933 patent would expire on October 2, 2004.

146. Defendant knew or should have known that the term of the '933 patent expired on October 2, 2004.

147. Defendant does not own or have a license to the '933 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '933 patent.

148. Upon information and belief, Defendant knew or should have known that the '933 patent had already expired at the same time Defendant was marking and advertising products with the '933 patent, including the products identified in Paragraph 140.

149. Defendant knew it did not own or have a license to the '933 patent at the same time Defendant was marking and advertising products with the '933 patent, including the product identified in Paragraph 140.

150. Defendant knows, or at least reasonably should know, that the '933 patent does not cover the products identified in Paragraph 140, or any products whatsoever.

151. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

152. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '933 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

153. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

154. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

155. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT IX - U.S. PATENT NO. 5,243,921 – EXPIRED PATENT

156. For this Count, Relator repeats the allegations of Paragraphs 1-11.

157. U.S. Patent No. 5,243,921 ("the '921 patent"), entitled "Adjustable Table Base" issued on September 14, 1993.

158. Defendant marks and advertises, and has marked and advertised, products with the '921 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

159. Defendant causes or contributes to the marking and advertising, of products with the '921 patent number, including, but not limited to, the products identified in Paragraph 158.

160. The '921 patent is an expired patent.

161. Upon information and belief, the '921 patent expired on October 12, 2005.

162. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

163. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '921 patent would expire on October 12, 2005.

164. Defendant knew or should have known that the term of the '921 patent expired on October 12, 2005.

165. Defendant does not own or have a license to the '921 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '921 patent.

166. Upon information and belief, Defendant knew or should have known that the '921 patent had already expired at the same time Defendant was marking and advertising products with the '921 patent, including the products identified in Paragraph 158.

167. Defendant knew it did not own or have a license to the '921 patent at the same time Defendant was marking and advertising products with the '921 patent, including the product identified in Paragraph 158.

168. Defendant knows, or at least reasonably should know, that the '921 patent does not cover the products identified in Paragraph 158, or any products whatsoever.

169. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

170. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '921 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

171. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

172. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

173. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT X - U.S. PATENT NO. 5,422,152 – EXPIRED PATENT

174. For this Count, Relator repeats the allegations of Paragraphs 1-11.

175. U.S. Patent No. 5,422,152 ("the '152 patent"), entitled "Sleeve Label Attachment" issued on June 6, 1995.

176. Defendant marks and advertises, and has marked and advertised, products with the '152 patent number, including, but not limited to the Oliver Products.

177. Defendant causes or contributes to the marking and advertising, of products with the '152 patent number, including, but not limited to, the products identified in Paragraph 176.

178. The '152 patent is an expired patent.

179. Upon information and belief, the '152 patent expired on July 9, 2003.

180. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

181. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '152 patent would expire on July 9, 2003.

182. Defendant knew or should have known that the term of the '152 patent expired on July 9, 2003.

183. Defendant does not own or have a license to the '152 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '152 patent.

184. Upon information and belief, Defendant knew or should have known that the '152 patent had already expired at the same time Defendant was marking and advertising products with the '152 patent, including the products identified in Paragraph 176.

185. Defendant knew it did not own or have a license to the '152 patent at the same time Defendant was marking and advertising products with the '152 patent, including the product identified in Paragraph 176.

186. Defendant knows, or at least reasonably should know, that the '152 patent does not cover the products identified in Paragraph 176, or any products whatsoever.

187. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

188. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '152 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

189. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

190. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

191. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT XI - U.S. PATENT NO. 5,590,587 – EXPIRED PATENT

192. For this Count, Relator repeats the allegations of Paragraphs 1-11.

193. U.S. Patent No. 5,590,587 ("the '587 patent"), entitled "Cooker/Rethermalizer" issued on January 7, 1997.

194. Defendant marks and advertises, and has marked and advertised, products with the '587 patent number, including, but not limited to the Oliver Products.

195. Defendant causes or contributes to the marking and advertising, of products with the '587 patent number, including, but not limited to, the products identified in Paragraph 194.

196. The '587 patent is an expired patent.

197. Upon information and belief, the '587 patent expired on February 9, 2005.

198. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

199. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '587 patent would expire on February 9, 2005.

200. Defendant knew or should have known that the term of the '587 patent expired on February 9, 2005.

201. Defendant does not own or have a license to the '587 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '587 patent.

202. Upon information and belief, Defendant knew or should have known that the '587 patent had already expired at the same time Defendant was marking and advertising products with the '587 patent, including the products identified in Paragraph 194.

203. Defendant knew it did not own or have a license to the '587 patent at the same time Defendant was marking and advertising products with the '587 patent, including the product identified in Paragraph 194.

204. Defendant knows, or at least reasonably should know, that the '587 patent does not cover the products identified in Paragraph 194, or any products whatsoever.

205. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

206. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '587 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

207. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

208. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

209. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT XII - U.S. PATENT NO. 5,613,423 – EXPIRED PATENT

210. For this Count, Relator repeats the allegations of Paragraphs 1-11.

211. U.S. Patent No. 5,613,423 ("the '423 patent"), entitled "Cooker/Rethernalizer" issued on March 25, 1997.

212. Defendant marks and advertises, and has marked and advertised, products with the '423 patent number, including, but not limited to the Oliver Products.

213. Defendant causes or contributes to the marking and advertising, of products with the '423 patent number, including, but not limited to, the products identified in Paragraph 212.

214. The '423 patent is an expired patent.

215. Upon information and belief, the '423 patent expired on April 27, 2005.

216. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

217. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '423 patent would expire on April 27, 2005.

218. Defendant knew or should have known that the term of the '423 patent expired on April 27, 2005.

219. Defendant does not own or have a license to the '423 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '423 patent.

220. Upon information and belief, Defendant knew or should have known that the '423 patent had already expired at the same time Defendant was marking and advertising products with the '423 patent, including the products identified in Paragraph 212.

221. Defendant knew it did not own or have a license to the '423 patent at the same time Defendant was marking and advertising products with the '423 patent, including the product identified in Paragraph 212.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PATENT GROUP LLC,	§	
Relator	§	
	§	
v.	§	Civil Action No.2:11-cv-00122-TJW
	§	
OLIVER PACKAGING & EQUIPMENT	§	
COMPANY	§	
Defendant	§	JURY TRIAL DEMANDED

**AMENDED *QUI TAM* COMPLAINT
FOR FALSE MARKING**

Relator Patent Group, LLC ("Relator"), for its Amended Complaint against Defendant Oliver Packaging and Equipment Company ("Defendant") alleges as follows:

INTRODUCTION

This is a lawsuit brought under the private attorney general provisions of the patent laws for recovery under Section 292, Title 35 of the United States Code, for penalties payable to the United States for falsely marked products as covered by United States Patents with the intent to deceive others. Defendant has falsely marked its Mini-Supreme Bread Slicer, Front-Load Slicer, Front-Load Duo Slicer, Varislicer, Adjustable Table, Rethermalizer, and Sleeve Attachment (collectively referred to as "Oliver Products") as protected by patents that are not in force and/or do not cover the Oliver Products. Defendant has done so with the intent to deceive others and deter them from competing or purchasing competitive products.

A patent monopoly is a powerful exception to the principles of full and fair competition that protect markets, consumers, and competitors upon which the United States economy is based. The patent laws are a complex regulatory scheme, that conflict with antitrust and other laws, which must be balanced to protect the public. As with the antitrust laws, the United States

222. Defendant knows, or at least reasonably should know, that the '423 patent does not cover the products identified in Paragraph 212, or any products whatsoever.

223. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

224. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '423 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

225. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

226. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

227. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT XIII - U.S. PATENT NO. 5,539,185 – EXPIRED PATENT

228. For this Count, Relator repeats the allegations of Paragraphs 1-11.

229. U.S. Patent No. 5,539,185 ("the '185 patent"), entitled "Cooker/Rethermalizer" issued on July 23, 1996.

230. Defendant marks and advertises, and has marked and advertised, products with the '185 patent number, including, but not limited to the Oliver Products.

231. Defendant causes or contributes to the marking and advertising, of products with the '185 patent number, including, but not limited to, the products identified in Paragraph 230.

232. The '185 patent is an expired patent.

233. Upon information and belief, the '185 patent expired on August 18, 2008.

234. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

235. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '185 patent would expire on August 18, 2008.

236. Defendant knew or should have known that the term of the '185 patent expired on August 18, 2008.

237. Defendant does not own or have a license to the '185 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '185 patent.

238. Upon information and belief, Defendant knew or should have known that the '185 patent had already expired at the same time Defendant was marking and advertising products with the '185 patent, including the products identified in Paragraph 230.

239. Defendant knew it did not own or have a license to the '185 patent at the same time Defendant was marking and advertising products with the '185 patent, including the product identified in Paragraph 230.

240. Defendant knows, or at least reasonably should know, that the '185 patent does not cover the products identified in Paragraph 230, or any products whatsoever.

241. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

242. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '185 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

243. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

244. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

245. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT XIV - U.S. PATENT NO. 5,445,062 -- EXPIRED PATENT

246. For this Count, Relator repeats the allegations of Paragraphs 1-11.

247. U.S. Patent No. 5,445,062 ("the '062 patent"), entitled "Cooker/Rethermalizer" issued on August 29, 1995.

248. Defendant marks and advertises, and has marked and advertised, products with the '062 patent number, including, but not limited to the Oliver Products.

249. Defendant causes or contributes to the marking and advertising, of products with the '062 patent number, including, but not limited to, the products identified in Paragraph 248.

250. The '062 patent is an expired patent.

251. Upon information and belief, the '062 patent expired on September 24, 2007.

252. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

253. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '062 patent would expire on September 24, 2007.

254. Defendant knew or should have known that the term of the '062 patent expired on September 24, 2007.

255. Defendant does not own or have a license to the '062 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '062 patent.

256. Upon information and belief, Defendant knew or should have known that the '062 patent had already expired at the same time Defendant was marking and advertising products with the '062 patent, including the products identified in Paragraph 248.

257. Defendant knew it did not own or have a license to the '062 patent at the same time Defendant was marking and advertising products with the '062 patent, including the product identified in Paragraph 248.

258. Defendant knows, or at least reasonably should know, that the '062 patent does not cover the products identified in Paragraph 248, or any products whatsoever.

259. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

260. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '062 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

261. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

262. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

263. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT XV - U.S. PATENT NO. 5,784,858

264. For this Count, Relator repeats the allegations of Paragraphs 1-11.

265. U.S. Patent No. 5,784,858 ("the '858 patent"), entitled "Drawer Action Tray Sealing Machine" issued on July 28, 1998.

266. Defendant marks and advertises, and has marked and advertised, products with the '858 patent number, including, but not limited to the Oliver Products.

267. Defendant causes or contributes to the marking and advertising, of products with the '858 patent number, including, but not limited to, the products identified in Paragraph 266.

268. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

269. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) knew or should have known that the '858 patent did not cover some of the products that the '858 patent was marked on.

270. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

271. Defendant could have no reasonable belief that it was proper to mark and advertise products with the '858 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights.

272. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

273. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail

price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

274. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT XVI - U.S. PATENT NO. 5,946,887

275. For this Count, Relator repeats the allegations of Paragraphs 1-11.

276. U.S. Patent No. 5,946,887 ("the '887 patent"), entitled "Drawer Action Tray Sealing Machine" issued on September 7, 1999.

277. Defendant marks and advertises, and has marked and advertised, products with the '887 patent number, including, but not limited to the Oliver Products.

278. Defendant causes or contributes to the marking and advertising, of products with the '887 patent number, including, but not limited to, the products identified in Paragraph 277.

279. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

280. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) knew or should have known '277 patent did not cover some of the products that the '277 patent was marked on.

281. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

282. Defendant could have no reasonable belief that it was proper to mark and advertise products with the '277 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

283. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

284. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

285. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT XVII - U.S. PATENT NO. 6,571,534

286. For this Count, Relator repeats the allegations of Paragraphs 1-11.

287. U.S. Patent No. 6,571,534 ("the '534 patent"), entitled "Tray Sealing Machine" issued on June 3, 2003.

288. Defendant marks and advertises, and has marked and advertised, products with the '534 patent number, including, but not limited to the Oliver Products.

289. Defendant causes or contributes to the marking and advertising, of products with the '534 patent number, including, but not limited to, the products identified in Paragraph 288.

290. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

291. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) knew or should have known that the '534 patent did not cover some of the products that the '534 patent was marked on.

292. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

293. Defendant could have no reasonable belief that it was proper to mark and advertise products with the '534 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

294. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

295. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

296. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

PRAYER FOR RELIEF

WHEREFORE, pursuant to 35 U.S.C. § 292, Relator respectfully requests:

A. A judgment that Defendant has falsely marked products in violation of 35 U.S.C. § 292;

B. An accounting of the number, sales and revenue of any falsely marked articles not presented at trial;

C. A judgment in favor of Relator that Defendant has falsely marked items in violation of 35 U.S.C. § 292(a)-(b) in the form of a civil fine of \$500 per falsely marked article, or an alternative amount, as set by the Court, one-half of any such award to be paid to the United States;

D. An Award of pre-judgment and post-judgment interest on any monetary award;

E. An injunction prohibiting Defendant, and its officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from violating 35 U.S.C. § 292(a);

F. An award of attorneys fees, costs, other expenses and an enhancement of damages and penalties; and

G. All other just and equitable relief.

JURY DEMAND

Relator requests trial by jury on all appropriate issues.

has created a private attorney general system for the detection and enforcement of abuses of parts of the patent laws. Here, Section 292 of the patent laws allows a litigant acting as a private attorney general to sue in *qui tam* for false marking of a product, with one half of the recovery going to the United States. As a practical matter, the United States has little ability to otherwise police false marking and must rely on private litigant enforcement.

For simple devices or products, often times patents on specific features are the primary or main bar to new competition. Here Defendant has engaged in a pattern and practice of advertising the Oliver Products with expired patents in violation of Section 292 of Title 35 of the United States Code. Defendant proudly boasts in advertising brochures and its packaging that its Oliver Products are patented suggesting that the products so marked are not available from others and/or similar products are an infringement of its patents. Yet at least one patent marked on significant products is not in force and is falsely marked in violation of Title 35, Section 292 of the United States Code.

THE PARTIES

1. Relator is a limited liability company organized and existing under the laws of the State of Texas.

2. Defendant Oliver Packaging and Equipment Company is a Delaware corporation that can be served by certified mail through its registered agent, Corporation Service Company, 2711 Centerville Road Suite 400, Wilmington, DE 19808.

NATURE OF THE ACTION

3. This is an action for false marking arising under 35 U.S.C. § 292 of the patent laws of the United States.

Respectfully submitted,

Martin Walker, P.C.
522 S. Broadway Ste 200
Tyler, Texas 75702
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(903) 595-0796 (Fax)

By: /s/ Jack Walker
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April 06, 2011

Mail Stop 8
Director of the U.S. Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

Re: Civil Action No. 2:11-cv-122-TJW; *Patent Group LLC vs. Oliver Packaging & Equipment Company*; In the U. S. District Court for the Eastern District of Texas, Marshall Division

Dear Sir or Madam:

Enclosed please find the amended form AO 120 with attached Amended Complaint for the above-referenced case.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

**MARTIN
WALKER**.PC.

Barbara Gorman

Barbara Gorman
Legal Assistant to
Marisa Schouten



4. Relator has standing to bring this action under Article III of the United States Constitution and 35 U.S.C. § 292. Under the terms of the statute, “any person” may bring an action for its enforcement. Furthermore, Relator has suffered harm, both individually and as a member of the public. As a member of the public, Relator has suffered the deleterious economic effects caused by Defendant’s conduct which deceives the public and inhibits competition in the marketplace. In other words, Defendant’s conduct causes the public to pay more than it should have for Defendant’s products.

5. As set forth in detail below, Defendant has violated 35 U.S.C. § 292 (a) by falsely marking and advertising, or causing or contributing to the false marking and advertising of products that list expired patent numbers or claim to be patented.

6. The expiration date of a U.S. Patent is not readily ascertainable by members of the public at the time of the product purchase. The patent number itself does not provide members of the public with the expiration date of the patent. Basic information about a patent, such as the filing, issue and priority dates associated with a particular U.S. patent number are available at, for example, the website of the United States Patent and Trademark Office (“USPTO”). However, access to the Internet is necessary to retrieve that information (meaning that a consumer may not have the ability to retrieve the information, especially while he is in a store making a purchasing decision) and even after retrieving that information, it does not include the expiration date of a patent. Rather, a member of the public must also conduct a burdensome legal analysis, requiring specific knowledge of U.S. Patent laws regarding patent term expiration. Notably, a correct calculation of the expiration date must also account for at least: a) any term extensions granted by the USPTO, which may or may not be present on the face of the patent, and b) whether or not the patent owner has paid the necessary maintenance fees.

7. Defendant could have no reasonable belief that the products identified below were properly marked. Thus, the false marking was done with the intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patents and inhibiting competition.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over Relator's false marking claims under 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendant by virtue of, inter alia, Defendant's persistent and continuous contacts with the Eastern District of Texas, including active and regular conduct of business during the relevant time period through its sales in Texas.

10. This Court has personal jurisdiction over Defendant because, inter alia, Defendant has violated 35 U.S.C. § 292, and falsely marked, advertised, distributed and sold products in the Eastern District of Texas. Further, on information and belief, Defendant has sold falsely marked the Oliver Products in competition with sellers of competitive products in the Eastern District of Texas. Upon information and belief, such sales by Defendant are substantial, continuous and systematic.

11. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1395(a).

COUNT I - U.S. PATENT NO. 4,141,196 - EXPIRED PATENT

12. For this Count, Relator repeats the allegations of Paragraphs 1-11.

13. U.S. Patent No. 4,141,196 ("the '196 patent"), entitled "Seal Wrapping Machine" issued on February 27, 1979.

14. Defendant marks and advertises, and has marked and advertised, products with the '196 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

15. Defendant causes or contributes to the marking and advertising, of products with the '196 patent number, including, but not limited to, the products identified in Paragraph 14.

16. The '196 patent is an expired patent.

17. Upon information and belief, the '196 patent expired on October 11, 1997.

18. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

19. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '196 patent would expire on October 11, 1997.

20. Defendant knew or should have known that the term of the '196 patent expired on October 11, 1997.

21. Defendant does not own or have a license to the '196 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '196 patent.

22. Upon information and belief, Defendant knew or should have known that the '196 patent had already expired at the same time Defendant was marking and advertising products with the '196 patent, including the products identified in Paragraph 14.

23. Defendant knew it did not own or have a license to the '196 patent at the same time Defendant was marking and advertising products with the '196 patent, including the product identified in Paragraph 14.

24. Defendant knows, or at least reasonably should know, that the '196 patent does not cover the products identified in Paragraph 14, or any products whatsoever.

25. Each offense of false marking caused by Defendant has and continues to deceive the public and deter competition to the financial benefit of Defendant.

26. Defendant could have no reasonable belief that it was proper to mark and advertise products with the expired '196 patent number, and the false marking was done with intent to deceive the public by, including, but not limited to, misusing its patent rights to extend the term of its patent and inhibiting competition.

27. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely benefitted in at least maintaining its market share with respect to the herein described Oliver Products in the marketplace.

28. For at least the reasons set forth herein, Defendant has wrongfully and illegally advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of its products described herein to be inflated above normal market levels, and has caused Relator, a consumer of Defendant's products, to pay this inflated price.

29. The public deception, and/or competitive harm caused by each of Defendant's false markings has and continues to harm the United States, including Relator, a representative of the public incurring the cost and time associated with this enforcement.

COUNT II - U.S. PATENT NO. 4,194,341- EXPIRED PATENT

30. For this Count, Relator repeats the allegations of Paragraphs 1-11.

31. U.S. Patent No. 4,194,341 ("the '341 patent"), entitled "Hand Operated Filling and Sealing Device" issued on March 25, 1980.

32. Defendant marks and advertises, and has marked and advertised, products with the '341 patent number, including, but not limited to, the Oliver Products, depicted at Exhibit "A."

33. Defendant causes or contributes to the marking and advertising, of products with the '341 patent number, including, but not limited to, the products identified in Paragraph 32.

34. The '341 patent is an expired patent.

35. Upon information and belief, the '341 patent expired on December 5, 1997.

36. Defendant is a sophisticated company and has many decades of experience applying for, obtaining, maintaining and litigating patents. Defendant also has extensive experience manufacturing products and either marking or not marking them with words or numbers indicating that such products are protected by patents or pending applications.

37. Upon information and belief, Defendant and/or its predecessors (including its patent counsel) received notice that the '341 patent would expire on December 5, 1997.

38. Defendant knew or should have known that the term of the '341 patent expired on December 5, 1997.

39. Defendant does not own or have a license to the '341 patent and is not paying maintenance fees to the United States Patent and Trademark Office to maintain the '341 patent.

40. Upon information and belief, Defendant knew or should have known that the '341 patent had already expired at the same time Defendant was marking and advertising products with the '341 patent, including the products identified in Paragraph 32.

41. Defendant knew it did not own or have a license to the '341 patent at the same time Defendant was marking and advertising products with the '341 patent, including the product identified in Paragraph 32.